

date of the conference at which the requirement for more than one field study is established. If FDA does not believe more than one field study is required but the potential applicant voluntarily proposes to conduct more than one field study, FDA will not provide such written justification. If FDA requires one field study to be conducted at multiple locations, FDA will provide justification for requiring multiple locations verbally during the pre-submission conference and in writing as part of the memorandum of conference.

(g) *Modification of presubmission conference agreements.* An agreement made under a presubmission conference requested under section 512(b)(3) of the act and documented in a memorandum of conference is binding on the potential applicant and FDA and may only be modified if:

(1) FDA and the potential applicant mutually agree to modify, in part or in whole, the agreement and such modification is documented and provided to the potential applicant as described in paragraph (f)(1) of this section; or

(2) FDA by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the new animal drug appeared after the conference.

(h) *When the terms of a presubmission conference agreement are not valid—*(1) A presubmission conference agreement will no longer be valid if:

(i) The potential applicant makes to FDA, before, during, or after the pre-submission conference, any untrue statement of material fact; or

(ii) The potential applicant fails to follow any material term of the agreement; and

(2) A presubmission conference may no longer be valid if the potential applicant submits false or misleading data relating to a new animal drug to FDA.

(i) *Dispute resolution.* FDA is committed to resolving differences between a potential applicant and FDA reviewing divisions with respect to requirements for the investigation of new animal drugs and for NADAs, supplemental NADAs, and ANADAs as quickly and amicably as possible through a

cooperative exchange of information and views. When administrative or procedural disputes arise, a potential applicant should first attempt to resolve the matter within the appropriate review division beginning with the individual(s) most directly assigned to the review of the application or investigational exemption. If the dispute cannot be resolved after such attempts, the dispute shall be evaluated and administered in accordance with applicable regulations (21 CFR 10.75). Dispute resolution procedures may be further explained by guidance available from the Center for Veterinary Medicine.

[69 FR 51170, Aug. 18, 2004]

§514.6 Amended applications.

The applicant may submit an amendment to an application that is pending, including changes that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the drug or the adequacy of the manufacturing methods, facilities, and controls to preserve them, in which case the unamended application may be considered as withdrawn and the amended application may be considered resubmitted on the date on which the amendment is received by the Food and Drug Administration. The applicant will be notified of such date.

§514.7 Withdrawal of applications without prejudice.

The sponsor may withdraw his pending application from consideration as a new animal drug application upon written notification to the Food and Drug Administration. Such withdrawal may be made without prejudice to a future filing. Upon resubmission, the time limitation will begin to run from the date the resubmission is received by the Food and Drug Administration. The original application will be retained by the Food and Drug Administration although it is considered withdrawn. The applicant shall be furnished a copy at cost on request.

§514.8 Supplemental new animal drug applications.

(a)(1) After a new animal drug application is approved, a supplemental new animal drug application may propose

changes. A supplemental application may omit statements made in the approved application concerning which no change is proposed. Each supplemental application shall include up-to-date reports of any of the kinds of information required by §514.80 that has not previously been submitted. A supplemental application shall be accompanied by either a claim for categorical exclusion under §25.30 or §25.33 of this chapter or an environmental assessment under §25.40 of this chapter.

(2) A supplemental new animal drug application shall be submitted for any change beyond the variations provided for in the application, including changes in the scale of production such as from pilot-plant to production batch, that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the new animal drug, or the adequacy of the manufacturing methods, facilities, or controls to preserve them.

(3) If it is a prescription drug, any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application, unless:

(i) The parts of the labeling furnishing directions, warnings, and information for use of the drug are the same in language and emphasis as labeling approved or permitted; and

(ii) Any other parts of the labeling are consistent with and not contrary to such approved or permitted labeling.

(4) The supplemental application shall be submitted as follows. A communication proposing a change in a new animal drug application should provide for any one of the following kinds of changes:

(i) Revision in labeling, such as updating information pertaining to effects, dosages, and side effects and contraindications, which includes information headed "side effects," "warnings," "precautions," and "contraindications."

(ii) Addition of claim.

(iii) Revision in manufacturing or control procedures; for example, changes in components, composition, method of manufacture, analytical control procedures, package or tablet size, etc.

(iv) Change in manufacturing facilities.

(v) Provision for outside firm to participate in the preparation, distribution, or packaging of a new animal drug (new distributor, packer, supplier, manufacturer, etc.); one firm per submission.

Any number of changes may be submitted at any one time; but if they fall into different categories as listed in paragraphs (a)(4) (i) through (v) of this section, the proposed changes should be covered by separate communications. Where, however, a change necessitates an overlap in categories, it should be submitted in a single communication. For example, a change in tablet potency would require other changes such as in components, composition, and labeling and should be submitted in a single communication.

(5) The following kinds of changes may be placed into effect without the approval of a supplemental application, if such change is fully described in the next periodic report required under §514.80(b)(4) or, when such a report is not required, in a written communication to the Food and Drug Administration within 60 days of the effective date of the change (this does not apply to a change proposed because of any mixup or any bacteriological or significant chemical, physical, or other change or deterioration in the drug or any failure of one or more distributed batches of the drug to meet its specifications):

(i) A different container size for solid oral dosage forms where container and closure are of the same materials as those provided for in the approved application.

(ii) Change in personnel not involving new facilities.

(iii) Change in equipment that does not alter the method of manufacture of a new animal drug.

(iv) Change from one commercial batch size to another without any change in manufacturing procedure.

(v) Change to more stringent specification without altering the method described in the approved application.

(vi) Inclusion of additional specifications and methods without deletion of those described in the approved application.

(vii) Alteration of specifications or methods for inactive ingredients to bring them into compliance with new or revised specifications or methods in an official compendium.

(viii) Initiation of a product identification coding system.

(ix) Addition to labeling of a reasonable expiration date where none was previously used, with related conditions of drug storage when appropriate, except when evidence shows that a significant deterioration of the drug under marketing conditions has occurred which necessitates the immediate submission of a report under §514.80(b)(1). The report or written communication describing such change in labeling should include stability data justifying the expiration date and recommended conditions of storage.

(x) Change from paper labels to direct printing on glass or other kinds of immediate containers without a change in text.

(6) Approval of a supplemental new animal drug application will not be required to provide for an additional distributor to distribute a drug which is the subject of an approved new animal drug application if the conditions described in §514.80(b)(5)(iii) are met before putting such a change into effect.

(b) When necessary for the safety or effectiveness of the drug, a supplemental new animal drug application shall specify a period of time within which the proposed change will be made.

(c) If a material change is made in the components' composition, manufacturing methods, facilities, or controls, or in the labeling or advertising, from the representations in an approved application for a new animal drug (except changes conforming to the conditions set forth in paragraph (a)(5) and (6) and/or paragraphs (d), (e), (f), and (g) of this section), and the drug is marketed before a supplement is approved for such change, approval of the application may be suspended or withdrawn as provided in section 512(e) of the act.

(d) Changes of the following kinds proposed in supplemental new animal drug applications should be placed into effect at the earliest possible time:

(1) The addition to package labeling, promotional labeling, and prescription drug advertising of additional warning, contraindication, side effect, and precaution information.

(2) The deletion from package labeling, promotional labeling, and drug advertising of false, misleading, or unsupported indications for use or claims for effectiveness.

(3) Changes in the methods, facilities, or controls used for the manufacture, processing, packing, or holding of the new animal drug (other than utilization of establishments not covered by the approval that is in effect) that give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity which it purports or is represented to possess.

(e) The Food and Drug Administration will take no action against a new animal drug or applicant solely because changes of the kinds described in paragraph (d) of this section are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application if all the following conditions are met:

(1) The supplemental new animal drug application providing a full explanation of the basis for the changes has been submitted, plainly marked on the mailing cover and on the supplement, "Special new animal drug application Supplement—changes being effected."

(2) The applicant specifically informs the Food and Drug Administration of the date on which such changes are being effected and submits to the Administration nine printed copies of any revised labeling to be placed in use, identified with the new animal drug application number.

(3) All promotional labeling and all drug advertising are promptly revised consistent with the changes made in the labeling on or within the new animal drug package.

(f) When a supplemental new animal drug application proposes changes only of the kinds described in paragraph (d) of this section, and the applicant informs the Food and Drug Administration that the changes are being put

into effect, such notification will be regarded as an agreement by the applicant to an extension of the time for formal action on the application.

(g) In addition to changes as permitted by paragraphs (d) and (e) of this section, an applicant may place into effect changes proposed in a supplement to a new animal drug application that became effective prior to October 10, 1962, upon written notification from the Food and Drug Administration that such action is permitted, without approval of the supplemental application, pending the completion of the review of the effectiveness of such drug by the National Academy of Sciences-National Research Council and a determination as to whether there are grounds for refusing approval under section 512(d) of the act or for invoking section 512(e) of the act. The Food and Drug Administration will take no action against a new animal drug or an applicant solely because changes that have been permitted in a written communication are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application.

(h) Except as provided in paragraphs (e) and (g) of this section, no provision of this section shall limit the authority of the Secretary or of the Commissioner to suspend or withdraw approval of a new animal drug application in accord with the provisions of section 512(e) of the act or to initiate any other regulatory proceedings with respect to a drug or applicant under provisions of the act.

(i) Changes from the conditions of an approved new animal drug application in accord with the provisions of paragraphs (d), (e), and (g) of this section are permitted on the basis of a temporary deferral of final action on the supplemental application under the provisions of section 512 (c), (d), or (e) of the act.

(j) When an applicant receives written notification from the Food and Drug Administration, under the provisions of paragraph (g) of this section, that he may place into effect changes proposed in a supplemental application without approval of the supplemental application, he may within 30 days sub-

mit a written request that the Food and Drug Administration process the supplemental application. In such case, the change shall not be put into effect until approved. Within 180 days of the receipt of such written request, the Food and Drug Administration will approve the supplemental application or furnish notice of an opportunity for a hearing under the provisions of section 512 (d) or (e), or both, of the act on a proposal to refuse approval of the supplemental application or to withdraw approval of the application and supplements thereto.

(k) A supplement to an application that became effective prior to October 10, 1962, may include a written statement to the effect that a temporary deferral of final action under the provisions of paragraph (d), (e), or (g) of this section is unacceptable to the applicant and that the applicant requests action as provided in section 512(c) of the act. Final action on such supplemental applications will be expedited in accord with applicable provisions of section 512 of the act and regulations in this subchapter E. In such cases, if the applicant places into effect any of the proposed changes prior to his receipt of a written notice of approval of the supplemental new animal drug application, such action may be regarded by the Food and Drug Administration as a basis for invoking the provisions of section 512(e)(1)(D) of the act; that is, the applicant may be furnished notice of an opportunity for a hearing on a proposal to withdraw approval of the application on the ground that the application contains an untrue statement of a material fact related to the changes from the conditions approved in the application.

(l) A supplemental application that contains nonclinical laboratory studies shall include, with respect to each nonclinical study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance.

[40 FR 13825, Mar. 27, 1975, as amended at 50 FR 7517, Feb. 22, 1985; 50 FR 16668, Apr. 26, 1985; 62 FR 40600, July 29, 1997; 68 FR 15365, Mar. 31, 2003]